

COUNCIL MEETING NOTICE AND AGENDA

WEDNESDAY, APRIL 11, 2012

9:00 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
Līhu'e, Kaua'i, Hawai'i 96766

RECEIVED

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OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. Special Council Meeting of February 14, 2012
2. Council Meeting of February 29, 2012
3. Public Hearing of March 28, 2012 re: Resolution No. 2012-22 and Resolution No. 2012-23

E. CONSENT CALENDAR:

1. C 2012-102 Communication (03/8/2012) from the Director of Finance, transmitting for Council information, the Period 7 Financial Reports – Statement of Revenues as of January 31, 2012 for Fiscal Year 2012, pursuant to Section 21 of the Operating Budget Ordinance (B-2011-732), County of Kaua'i. (*Statement of Revenues – Estimated and Actual, Revenue Report, Statement of Expenditures and Encumbrances, and Detailed Budget Report on file in the County Clerk's Office.*)
2. C 2012-103 Communication (03/08/2012) from the County Engineer, transmitting for Council consideration amendments to Chapter 12 (Kaua'i County Building Code), Kaua'i County Code 1987, as amended, by adopting the 2006 International Building Code and Residential Code, a new appendix for Hawai'i Hurricane Sheltering Provisions for New Construction, a new appendix for Hawai'i Wind Design Provisions for New Construction, and a new appendix for Hawai'i Provisions for Indigenous Hawaiian Architecture Structures. (*See Proposed Draft Bill (No. 2434)*)
3. C 2012-104 Communication (3/20/2012) from the Director of Finance, transmitting the Condition of the County Treasury Statement quarterly report as of February 10, 2012.

4. C 2012-105 Communication (03/28/2012) from Council Vice Chair Yukimura, providing written disclosure on the record of a possible conflict of interest relating to C 2012-100, a claim filed against the County of Kaua'i by David Yukimura, and that she is recusing herself from discussing or participating in this agenda item, because the claimant is her brother.
5. C 2012-106 Certification (03/30/2012) of the 2012 Real Property Assessment List of the County of Kaua'i by the Director of Finance. *(Real Property Assessment List 2012 on file in the County Clerk's Office.)*
6. C 2012-107 Communication (03/30/2012) from the Director of Finance, transmitting for Council consideration, supplemental information pertaining to the estimated reduction in real property tax revenues resulting from the various tax relief measures enacted by the County Council, based on the Real Property Assessment Certification for FY 2013 factored with the existing real property tax rates.
7. C 2012-108 Communication (04/03/2012) from Councilmember Nakamura, providing written disclosure on the record of a possible conflict of interest relating to the budget for the Office of Boards and Commissions, because her spouse's firm is contracted to provide legal services for that office, and she is recusing herself from participating in discussions related to the Mayor's budget submittal for FY 12-13 as it relates to Boards and Commissions.

F. COMMUNICATIONS:

1. C 2012-45 Communication (1/06/2012) from the Chief of Police, requesting Council approval to expend \$300,000.00 of Asset Forfeiture Funds for planning, designing and procurement assistance for a permanent Kawaihau Police Station, rather than the previously requested purchase of a modular building to be used as a temporary police station in the Kawaihau District. ***(Finance/Parks & Recreation/Public Works Programs Committee recommended approval on 04/04/2012; see CR-FPP 2012-05.)***
2. C 2012-63 Communication (02/16/2012) from Councilmember Rapozo, requesting the Administration's presence to provide the Council with:
 - An annual (2011 calendar year) synopsis of construction activity in the County of Kaua'i as reflected in the building permit information that is normally provided to the Council on a monthly basis.
 - A projection of construction activity in the County of Kaua'i for the 2012 calendar year.***(Deferred 03/28/2012)***

3. C 2012-70 Communication (02/15/2012) from Bev Brody, Island Coordinator, Get Fit Kaua'i, transmitting for Council information, an update on the County's Complete Streets Policy adopted via Resolution 2010-48. *(Deferred 03/14/2012 to April 11, 2012)*
4. C 2012-74 Communication (03/01/2012) from the Chairperson, Salary Commission, transmitting the Salary Commission's Resolution No. 2012-1, Resolution Amending Resolution No. 2011-1 Relating To The Salaries Of Certain Officers And Employees Of The County of Kaua'i. *(Referred to the full Council by the Committee of the Whole on 04/04/2012.)*
5. C 2012-91 Communication (03/01/2012) from the Prosecuting Attorney, requesting Council approval to apply and receive Technical Assistance from the Bureau of Justice Assistance and the Vera Institute of Justice's national Cost-Benefit Knowledge Bank for Criminal Justice, which will allow the OPA to find innovative programs and develop procedures to ensure that the community is served in the most cost efficient manner and in the best way possible. *(Deferred to Special Committee of the Whole Meeting on April 11, 2012.)*
6. C 2012-96 Communication (03/13/2012) from the Anti-Drug Coordinator, requesting Council approval to apply for, receive, and expend funds from the State of Hawai'i Department of Human Services, Office of Youth Services Title V Incentive Grant in the amount of \$128,198.00, which will be used for a mentoring/advocacy program to prevent youth at risk of becoming delinquent and from entering the juvenile justice system. *(Public Safety & Environmental Services Committee recommended approval on 04/04/2012; see CR-PSE 2012-02.)*
7. C 2012-101 Communication (03/29/2012) from the Prosecuting Attorney, requesting authorization to expend funds up to \$10,000.00 to retain special counsel to represent the Office of the Prosecuting Attorney before the Civil Service Commission, relating to the classification of position no. 2801 and related matters. *(Deferred 04/04/2012)*
8. C 2012-109 Communication (03/08/2012) from the Chief of Police, requesting Council approval to accept and utilize a 40-foot container that was forfeited through the Asset Forfeiture Program, to store equipment for the Vice/Narcotics Unit.

9. C 2012-110 Communication (03/14/2012) from the Executive on Aging, requesting Council approval to receive and expend funds in the amount of \$62,847.00 for year one (April 1, 2012 to March 31, 2013) of a three-year grant (April 1, 2012 to March 31, 2015) awarded by the Corporation for National and Community Service to assist the Kaua'i Retired and Senior Volunteer Program in carrying out a national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C., Chapter 22).
10. C 2012-111 Communication (03/14/2012) from the Director of Planning, requesting Council approval to apply for, receive, indemnify, and expend grant funds, in an amount not to exceed \$200,000.00 for a period of up to two years, from the National Oceanic and Atmospheric Administration's (NOAA) Coastal Storms Program to support a General Plan Technical Study relating to research, creation, and implementation of policies relating to coastal hazards.
11. C 2012-112 Communication (03/21/2012) from the Executive on Transportation, requesting Council approval to apply for, receive, indemnify, and expend a Fiscal Year 2012 Federal Transit Administration (FTA) Section 5309 State of Good Repair Grant in the amount of \$1,340,000.00, for bus replacement and installation of GPS units in the Transportation Agency fleet.
12. C 2012-113 Communication (03/21/2012) from the Executive on Transportation, requesting Council approval to apply for, receive, indemnify, and expend a Fiscal Year 2012 Federal Transit Administration (FTA) Section 5309 "Bus Livability Program" Grant in the amount of \$1,000,000.00, to provide passenger shelters and improvements for public transit bus stops.
13. C 2012-114 Communication (04/05/2012) from Councilmember Bynum, requesting Council approval to publicly release the January 24, 2012 County Attorney opinion regarding transient vacation rentals with homeowner's exemptions.

G. LEGAL DOCUMENTS:

1. C 2012-115 Communication (03/21/2012) from the Civil Defense Manager, recommending approval to enter into a Memorandum of Agreement (MOA) and Use Permit with the Hawai'i State Department of Defense, for designated areas in the Kapa'a Armory at 4670 Kahau Road, Kapa'a, Hawai'i 96746, to be used as a Police Sub-station. The MOA is for a term of four (4) years, beginning June 1, 2012 through March 31, 2016, and the Use Permit is for a term of one (1) year, beginning June 1, 2012 through May 31, 2013.
 - a) Memorandum of Agreement Between the Department of Defense and the County of Kaua'i (for the use of the Kapa'a Armory)
 - b) Use Permit 12-004

2. C 2012-116 Communication (03/23/2012) from the Director of Finance and the Information Technology Manager, recommending approval of the Internet Service Renewal Contract for TW Telecom, including the indemnification language that is incorporated into the Standard Terms and Conditions.
- Contract No. 153451, TW Telecom Service Order

H. CLAIMS:

1. C 2012-117 Communication (03/20/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Eric B. Alfonso for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. C 2012-118 Communication (03/20/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Alan S. Murabayashi for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:

1. PUBLIC SAFETY & ENVIRONMENTAL SERVICES COMMITTEE REPORT:

- a. **CR-PSE 2012-02:** on C 2012-96 Communication (03/13/2012) from the Anti-Drug Coordinator, requesting Council approval to apply for, receive, and expend funds from the State of Hawai'i Department of Human Services, Office of Youth Services Title V Incentive Grant in the amount of \$128,198.00, which will be used for a mentoring/advocacy program to prevent youth at risk of becoming delinquent and from entering the juvenile justice system.
[Approved.]

2. FINANCE/PARKS & RECREATION/PUBLIC WORKS PROGRAMS COMMITTEE REPORTS:

- a. **CR-FPP 2012-04:** on Bill No. 2425 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 5A OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO HOME EXEMPTIONS **[Approved as amended.]**
(Deferred 3/28/2012)
- b. **CR-FPP 2012-05:** on C 2012-45 Communication (1/06/2012) from the Chief of Police, requesting Council approval to expend \$300,000.00 of Asset Forfeiture Funds for planning, designing and procurement assistance for a permanent Kawaihau Police Station, rather than the previously requested purchase of a modular building to be used as a temporary police station in the Kawaihau District.
[Approved.]

c. CR-FPP 2012-06: FPP 2012-03

Communication (03/12/2012) from Committee Chair Bynum, requesting the Administration's presence to provide the Committee with information on the County's Capital Improvements Projects (CIP), including the following:

- The amount of funding that was encumbered and the amount actually spent for each project in the CIP budget going back five (5) years.
- The total overall CIP amount expended in each year for the last ten years from 1) planning, permitting, etc.; 2) construction; and 3) total.
- How many projects the Administration feels that it can feasibly award and start each year to begin expending funds.
- The Administration's needs in order to get more projects started, i.e., more staffing, hiring of consultants to serve as project managers, etc.

[Received for the record.]

3. COMMITTEE OF THE WHOLE REPORTS:**a. CR-COW 2012-08: on C 2012-90**

Communication (03/01/2012) from the Council Chair, requesting the presence of the County Engineer and the Chief of Buildings to provide an update on the repairs and maintenance of the Kilauea Gym as it relates to the leaking roof, floor damage, and corrective action that has been done to address the roof and floor. **[Referred to the April 25, 2012 Council Meeting.]**

b. CR-COW 2012-09: on C 2012-87

Communication (03/08/2012) from the Director of Personnel Services, transmitting for Council information, the quarterly reports (September 30, 2011 – December 31, 2011) relative to vacancies, new hires, transfers, reallocations, and promotions, pursuant to Section 19 of Ordinance No. B-2011-732.

[Received for the record.]

c. CR-COW 2012-10: on C 2012-74

Communication (03/01/2012) from the Chairperson, Salary Commission, transmitting the Salary Commission's Resolution No. 2012-1, Resolution Amending Resolution No. 2011-1 Relating To The Salaries Of Certain Officers And Employees Of The County of Kaua'i. **[Referred to the full Council.]**

d. CR-COW 2012-11: on C 2012-91

Communication (03/01/2012) from the Prosecuting Attorney, requesting Council approval to apply and receive Technical Assistance from the Bureau of Justice Assistance and the Vera Institute of Justice's national Cost-Benefit Knowledge Bank for Criminal Justice, which will allow the OPA to find innovative programs and develop procedures to ensure that the community is served in the most cost efficient manner and in the best way possible.

[Deferred to Special Committee of the Whole Meeting on April 11, 2012.]

J. RESOLUTIONS:

1. Resolution No. 2012-22, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO DEFINITIONS OF "SHALL," "MUST," AND "MAY" *(Public hearing held 03/28/2012)*

2. Resolution No. 2012-23, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE ESTABLISHMENT OF THE OFFICE OF THE COUNCIL ATTORNEY *(Public hearing held 03/28/2012)*

3. Resolution No. 2012-26, RESOLUTION ESTABLISHING NO-PARKING AT ANY TIME ALONG A PORTION OF THE COUNTY ACCESS ROAD IN THE VICINITY OF VIDINHA STADIUM SOCCER FIELDS, LIHU'E DISTRICT, COUNTY OF KAUAI *(Deferred 03/28/2012)*

4. Resolution No. 2012-27, RESOLUTION AUTHORIZING THE FILING OF THE KAUAI COUNTY 2012 ACTION PLAN (HOME INVESTMENT PARTNERSHIPS PROGRAM) WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A GRANT UNDER TITLE II OF THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT (PUBLIC LAW 101-625), AS AMENDED *(Deferred 03/14/2012 to April 11, 2012)*

5. Resolution No. 2012-28, RESOLUTION AUTHORIZING THE FILING OF THE KAUAI COUNTY 2012 ACTION PLAN (COMMUNITY DEVELOPMENT BLOCK GRANT) WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A GRANT UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AND 1987 (PUBLIC LAWS 93-383 AND 100-242), AS AMENDED *(Deferred 03/14/2012 to April 11, 2012)*

K. BILL FOR FIRST READING:

1. Bill No. 2434 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12 OF THE KAUAI COUNTY CODE - 1987, AS AMENDED, ENTITLED "BUILDING CODE" *(Copy on file in the County Clerk's Office.)*

L. BILL FOR SECOND READING:

1. Bill No. 2424, Draft 1 - A BILL FOR AN ORDINANCE TO ALLOW SOLAR ENERGY FACILITIES IN THE AGRICULTURE DISTRICT *(Deferred 3/28/2012)*

M. EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)

1. ES-534 Pursuant to HRS sections 92-4, 92-5(a)(4), and section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney, at the request of Council, requests an executive session with the Council to provide the Council with a briefing on the retention of special counsel to represent the Office of the Prosecuting Attorney before the Civil Service Commission, relating to the classification of an employee and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
(Deferred 04/04/2012)
2. ES-537 Pursuant to HRS section 92-5(a) (2), (4) and (6), and Kaua'i County Charter section 3.07(e), the purpose of this executive session is to provide council with a briefing on the Prosecuting Attorney's request for approval to apply and receive technical assistance from the Bureau of Justice Assistance and the Vera Institute of Justice's national Cost-Benefit Knowledge Bank for Criminal Justice and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

N. ADJOURNMENT.

O. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUA'I. TELEPHONE NO. 241-4188. FACSIMILE NO. 241-6349.